

Message Text

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43

ACTION DLOS-04

INFO OCT-01 AF-06 ARA-06 EUR-12 EA-07 NEA-10 IO-11 ISO-00

FEA-01 ACDA-07 AGR-05 AID-05 CEA-01 CEQ-01 CG-00

CIAE-00 CIEP-01 COME-00 DODE-00 DOTE-00 EB-07 EPA-01

ERDA-05 FMC-01 TRSE-00 H-02 INR-07 INT-05 JUSE-00

L-03 NSAE-00 NSC-05 NSF-01 OES-06 OMB-01 PA-01 PM-04

PRS-01 SP-02 SS-15 USIA-06 SAL-01 OIC-02 /154 W

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R 101825Z APR 76

FM USMISSION USUN NY

TO SECSTATE WASHDC 6804

INFO AMEMBASSY PEKING

AMEMBASSY DAR

AMEMBASSY TRIPOLI

AMEMBASSY ADEN

AMEMBASSY LIMA

AMEMBASSY MOGADISCIO

AMEMBASSY CAIRO

AMEMBASSY MUSCAT

AMEMBASSY LONDON

AMEMBASSY MOSCOW

AMEMBASSY DAKAR

AMEMBASSY QUITO

AMEMBASSY MANILA

AMEMBASSY BUCHAREST

AMEMBASSY MADRID

AMEMBASSY JAKARTA

AMEMBASSY ANKARA

AMEMBASSY ALGIERS

AMEMBASSY SOFIA

AMEMBASSY SANTIAGO

AMBASSY OSLO

AMEMBASSY SEOUL

AMEMBASSY WELLINGTON

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AMEMBASSY AMAN

AMEMBASSY MANAMA
AMEMBASSY DOHA
AMEMBASSY KHARTOUM
AMEMBASSY KUWAIT
AMEMBASSY BAGHDAD
AMEMBASSY TUNIS
AMEMBASSY JIDDA
AMEMBASSY NOUAKCHOTT
AMEMBASSY SANA
AMEMBASSY TEL AVIV
AMEMBASSY ABU DHABI

C O N F I D E N T I A L USUN 1495

FROM LOS DEL

E.O. 11652: GDS

TAGS: PLOS

SUBJECT: LOS: COMMITTEE II MEETINGS, MARCH 31, 1976 --

DEBATE ON ARTICLE 44 (NON-SUSPENDABLE INNOCENT PASSAGE

REGIME FOR CERTAIN STRAITS USED FOR INTERNATIONAL NAVIGATION)

1. SUMMARY. THE NATURE OF THE DEBATE ON ARTICLE 44
(APPLYING NON-SUSPENDABLE INNOCENT PASSAGE, NOT RPT NOT FREE
TRANSIT IN STRAITS CONNECTING THE HIGH SEAS TO THE TERRITORIAL
SEA, E.G., TIRAN-AQABA, AND STRAITS FORMED BY AN ISLAND OFF
THE MAINLAND OF A STRAIT STATE, E.G., MESSINA) DID NOT DIFFER
FROM THAT OF THE DEBATE ON EARLIER STRAITS ARTICLES.
CHINA, TANZANIA, ALBANIA, LIBYA, YEMEN, PERU, SOMALIA,
EGYPT, AND OMAN REMAINED THE MOST TROUBLESOME. THE MAIN
THRUSTS OF OPPOSITION TO OUR VIEWS WERE FOR RESTRICTIONS
ON PASSAGE OF WARSHIPS, AS WELL AS GENERAL APPLICATION
OF THE REGIME OF INNOCENT PASSAGE TO STRAITS. THE UK
AND USSR WERE, HOWEVER, CONSTRUCTIVE IN ATTEMPTING TO
CLARIFY THE MEANING OF THE PARAGRAPH.

2. CHINA PROPOSED TO DELETE ARTICLE 44 AND WAS JOINED
BY TANZANIA, SENEGAL AND ALBANIA. YEMEN PROPOSED A NEW
ARTICLE 44 (WITH THE OLD ONE TO BECOME 44 BIS OR 45) AS
FOLLOWS: (UNDER THE TITLE QTE INNOCENT PASSAGE UNQTE)
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QTE

I. THE COASTAL STATE MAY REQUIRE PRIOR NOTIFICATION
TO OR AUTHORIZATION BY ITS COMPETENT AUTHORITIES FOR
THE PASSAGE THROUGH ITS STRAITS OF FOREIGN WARSHIPS.

II. THE COASTAL STATE MAY REQUIRE THE PASSAGE THROUGH
ITS STRAITS ALONG DESIGNATED TRAFFIC LANES OF FOREIGN

MARINE RESEARCH AND HYDROGRAPHIC SURVEY SHIPS,
FOREIGN OIL TANKERS AND CHEMICAL TANKERS CARRYING
HARMFUL OR NOXIOUS LIQUID SUBSTANCES IN BULK AND
FOREIGN SHIPS CARRYING NUCLEAR SUBSTANCES OR MATERIALS.

III. THE COASTAL STATE MAY REQUIRE PRIOR NOTIFICATION
TO ITS COMPETENT AUTHORITIES FOR THE PASSAGE THROUGH
ITS STRAITS OF FOREIGN NUCLEAR-POWERED SHIPS UNQTE.

THOSE SUPPORTING WERE PERU, ECUADOR, PHILIPPINES, CHINA,
(SOMALIA AS TO PARAGRAPH 1, PLUS AUTHORIZATION FOR
NUCLEAR-POWERED VESSELS), ROMANIA, EGYPT, YEMEN, AND OMAN.
SPAIN'S NEW ARTICLE (SEPTEL) CONTAINING DRAFTING CHANGES
TO MAKE THIS ARTICLE CONSISTENT WITH THE OTHER SPANISH
PROPOSALS, RECEIVED NO COMMENT.

3. PARAGRAPH 1 (DEFINING STRAITS TO WHICH NON-SUSPENDABLE
INNOCENT PASSAGE APPLIES). INDONESIA OFFERED SUBSTITUTE
SUB-PARAGRAPHS IN PARAGRAPH 1 AS FOLLOWS: QTE (A) IF THE
WIDTH OF THE STRAIT IS NOT MORE THAN 16 MILES FROM THE
BASELINES; OR (B) IF THE STRAIT, DUE TO ITS PHYSICAL
FEATURES, HAS BEEN CLASSIFIED AS A SPECIAL AREA UNQTE.
THE EFFECT WOULD BE TO APPLY INNOCENT PASSAGE RATHER
THAN TRANSIT PASSAGE IN SUCH STRAITS. NO SUPPORT AROSE
FOR THIS PROPOSAL. THE UK AND USSR OFFERED AMENDMENTS
TO SUB-PARAGRAPHS (A) (AND, IN THE CASE OF UK, A MINOR
CONSEQUENT AMENDMENT TO (B)) TO CLARIFY WHAT WAS REGARDED
BY MANY STATES TO BE A CONFUSING PROVISION. THESE
AMENDMENTS, IN EFFECT, REFERRED TO PARAGRAPH 1 OF
ARTICLE 38 AS THE CONTROLLING EXCLUSION FROM THE REGIME
OF TRANSIT PASSAGE. TURKEY, ALGERIA, UKRAINE, AND
BULGARIA SUPPORTED THE USSR VERSION AND CHILE, NORWAY,
U.S., REPUBLIC OF KOREA AND NEW ZEALAND BACKED THE UK.
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LIBYA, JORDAN, BAHRAIN, ALGERIA, QATAR, SUDAN AND OMAN
SUPPORTED A KUWAITI PROPOSAL TO DELETE THE PRESENT
SUB-PARAGRAPH (B).

4. PARAGRAPH 2 (PROHIBITING SUSPENSION OF INNOCENT
PASSAGE). THE UNITED ARAB EMIRATES PROPOSED THE DELETION
OF PARAGRAPH 2 ON THE BASIS OF AN ARAB STATES GROUP
DECLARATION AT CARACAS STATING THAT ONLY STRITS CONNECT-
ING AREAS OF HIGH SEAS COULD BE GOVERNED BY THE LOS
TREATY. IRAQ, PERU, TUNISIA, ECUADOR, SAUDI ARABIA,
YEMEN, KUWAIT, JORDAN, SOMALIA, MAURITANIA, EGYPT AND
DEMOCRATIC YEMEN SUPPORTED. ISRAEL ARGUED AGAINST THIS
POSITION, WITHOUT GAINING SUPPORT. THE PHILIPPINES
ADVOCATED A RIGHT OF SUSPENSION SUCH AS EXISTS IN THE
CASE OF A TERRITORIAL SEA OUTSIDE OF STRAITS.

5. THE UK OFFERED A NEW PARAGRAPH 3 QTE THE PROVISIONS
OF ARTICLE 40 SHALL APPLY IN SUCH STRAITS UNQTE. THIS
WAS SUPPORTED BY THE USSR, U.S., REPUBLIC OF KOREA,
UKRAINE AND BULGARIA. THE DISCUSSION ON THIS ARTICLE
WILL CONTINUE.
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